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Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested the Secretary-General to report at regular intervals on the implementation of the mandate. It covers the activities of UNMIK and developments related thereto from 1 March to 25 June 2008.

II. Political situation

2. Since my report to the Security Council in March (S/2008/211), the ability of UNMIK to operate as before and perform its functions as an interim administration has been fundamentally challenged owing to actions taken by both the authorities in Pristina and the Kosovo Serbs. In Pristina, Kosovo's authorities have instituted measures that have sought to effectively assume the Mission's powers. Most significantly, Kosovo adopted a Constitution on 15 June that does not envisage a real role for UNMIK, although Kosovo's leaders have welcomed the continued presence of the United Nations in Kosovo for some time. Kosovo has also passed legislation in a number of fields, whose purpose is to assume legal control and responsibility over areas that were previously reserved to my Special Representative. Kosovo Serbs, on their part, have rejected the constitution and connected legislation and, with the support of Belgrade, have expanded their boycott of Kosovo's institutions and widened and deepened their parallel structures, particularly in northern Kosovo. Kosovo Serbs have also, on occasion, resorted to violent means to express their opposition to Kosovo's authorities.

3. As I noted in my special report on Kosovo, which I submitted to the Security Council on 20 June (S/2008/354), it is my assessment that these events have contributed to creating a profoundly new reality in which UNMIK can no longer perform as effectively as in the past the vast majority of its tasks as an interim administration. In that report, I also informed the Security Council that, in the light of recent developments in Kosovo, I intended to adjust operational aspects of the international civil presence and reconfigure UNMIK in order to allow for the European Union to take on an increasing role in the rule of law sector, operating

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under resolution 1244 (1999) and under a "United Nations umbrella", headed by my Special Representative. In conjunction with this reconfiguration, I also informed the Council that my Special Representative, Lamberto Zannier, would engage in dialogue with Belgrade in six key areas of practical mutual concern as set out in my letter to President Tadić (S/2008/354, annex I): police, courts, customs, transportation and infrastructure, boundaries and Serbian patrimony. The dialogue would be brought forward in close consultation with the authorities in Pristina and with key stakeholders. Following the meeting of the Security Council on 20 June, and in the light of the fact that the Security Council is unable to provide guidance, I have instructed my Special Representative to move forward with the reconfiguration of UNMIK as set out in my special report, in order to adapt UNMIK to a changed reality and address current and emerging operational requirements in Kosovo.

4. Following the 17 February declaration of independence by the Kosovo Assembly, the authorities in Pristina have taken a number of steps to assert their authority in Kosovo. On 9 April, the Kosovo Assembly adopted the "Constitution of the Republic of Kosovo", which came into force on 15 June, along with a package of laws covering decentralization and borders, and authorizing the creation of a Kosovo Foreign Ministry and Intelligence Service. The constitution makes no mention of any role or function of the United Nations and does not contain a reference to resolution 1244 (1999). The Kosovo authorities have, however, welcomed the continued presence of the United Nations in Kosovo. They have committed themselves to implementing in full the Comprehensive Proposal for the Kosovo Status Settlement prepared by my then Special Envoy for the Kosovo Future Status Process, Martti Ahtisaari, and conveyed to the Security Council on 26 March 2007 (S/2007/168/Add.1). In addition to the adoption of the constitution and connected legislation, on 10 June the Kosovo Assembly adopted a national anthem and on 17 June the Kosovo Government authorized the establishment of nine "embassies" in Member States that have recognized the declaration of independence. On the ground, there have been several instances where Kosovo authorities have openly challenged the authority of UNMIK, in particular with regard to the application of property and vehicular traffic law.

5. Kosovo Serbs have continued to strongly oppose the declaration of independence and have manifested this through continued protests, some of which have turned violent. Kosovo Serb political leaders, and the authorities in Belgrade, have also declared their opposition to the deployment of a European Union rule of law mission in Kosovo Serb-majority areas, and have stressed that they will cooperate only with UNMIK. A small number of Kosovo Serb political representatives, including the two Kosovo Serb government ministers, as well as some Kosovo Police Service (KPS) and Kosovo Correctional Service officers, have returned to work in Kosovo structures at the central and municipal levels. However, the Kosovo Serb boycott of Kosovo's institutions has been expanded, and their attempts to entrench parallel structures have continued, with the support of Belgrade. The Government of Serbia has attempted to assert its authority in Kosovo Serb-majority areas in Kosovo, particularly in northern Kosovo, through the operation of Serbian railways and courts there. Belgrade has also instructed Kosovo Serbs to stop working for Kosovo's institutions and to renounce their salaries in order to receive payments from Serbia directly. This has affected, most significantly, Kosovo Serbs working for the KPS in southern Kosovo, as well as Kosovo Correctional Service staff, judges and court staff from courts north of the Iber/Ibar

River. On 22 May, 48 Kosovo Serb UNMIK customs staff resigned from their posts. In response, Kosovo authorities have implemented a policy of suspension with pay for Kosovo Serbs who are boycotting Kosovo institutions, even though some of these Kosovo Serbs continue to receive salaries from Belgrade.

6. During the reporting period, President Tadić, Prime Minister Koštunica, Vice-President of the Serb Radical Party Nikolić, and other senior Serbian officials visited Kosovo Serb-majority areas in Kosovo. Many of those visits were carried out in the context of campaigning for Serbian parliamentary and local municipal elections held on 11 May and took place without incident. The elections were organized by the Serbian Electoral Commission in 23 out of 30 municipalities in Kosovo where Kosovo Serbs live. UNMIK neither hindered nor supported the elections, and declared the results of the local municipal elections invalid. Following these elections, Serbian officials and Kosovo Serb leaders started to establish parallel municipal government structures in accordance with Serbian law. Some Kosovo Serb leaders, in particular those from Kosovo Serb-majority municipalities in northern Kosovo, have also expressed their intention to set up a Kosovo Serb Assembly, and have been supported by the Serbian Ministry for Kosovo and Metohija. On 18 June, executive decisions appointing municipal representatives on an interim basis in five Kosovo Serb-dominant municipalities — which were enacted to ensure continued local government political representation following the Kosovo Serb boycott of local elections in November 2007 — expired. In the three Kosovo Serb-majority municipalities in northern Kosovo — Leposaviq/Leposavić, Zveçan/Zvečan and Zubin Potok — these positions are currently being filled by Kosovo Serbs who base their legitimacy on the results of the 11 May Serbian elections, and no incidents have been reported. However, in other areas of Kosovo, such as in the municipality of Shtërpcë/Štrpce and in the village of Graçanicë/Gračanica (Pristina region), this has led to political confrontation with existing municipal and local governance structures, as well as with representatives of other communities living in these areas.

III. Security

7. While the general security situation remains calm on the surface, Pristina's declaration of independence and the entry into force of the Kosovo constitution, and reactions by Kosovo Serbs and Belgrade have increased tension between the Kosovo Albanian and Kosovo Serb communities. On 14 March, the UNMIK courthouse in northern Mitrovicë/Mitrovica was forcefully seized by Kosovo Serb judicial employees protesting and asking to be reinstated in their positions. On 17 March, an UNMIK police operation, supported by KFOR, re-established UNMIK control over the court. However, during the operation, UNMIK police and KFOR came under attack by the protesters and a violent confrontation ensued, which resulted in the tragic death of an international police officer from Ukraine, and in the wounding of 64 UNMIK police officers, 24 KFOR soldiers and several Kosovo Serb protesters. Thirty-two protesters were temporarily detained, but released later in the day. The incident led to a 36-hour withdrawal of UNMIK police from northern Mitrovicë/Mitrovica, leaving KFOR as first responder during the interim period. On 19 March, UNMIK police resumed normal policing duties in the area. Calm was restored in northern Mitrovicë/Mitrovica, where peaceful demonstrations resumed in front of the courthouse. Police investigations into these criminal acts are ongoing.

An independent investigation into the events in and around the operation to regain control of the Mitrovica courthouse was conducted at my request by Francis Ssekandi. The results of that inquiry have been submitted to me and are under review.

8. The availability of large quantities of illicit arms in Kosovo during this sensitive period is cause for significant concern. On 27 April, KPS and KFOR carried out an operation that led to the discovery of a major weapons cache near Zhegër/Žegra (Gjilan/Gnjilane region), close to the border with the former Yugoslav Republic of Macedonia. Police found a large amount of arms and ammunition hidden in two vehicles with Kosovo number plates, including two anti-aircraft guns, and numerous rocket grenade launchers, machine guns and rifles. Four Kosovo Albanian males were arrested on arms-trafficking charges in connection with that raid. Two days earlier, police had confiscated several kilograms of explosives and an automatic rifle in northern Mitrovicë/Mitrovica; three Kosovo Serbs were arrested in connection with that seizure. Three weeks later, on 19 May, several kilograms of explosives and 3,500 rounds of ammunition were seized and a Kosovo Albanian was arrested near Kaçanik/Kačanik.

IV. Rule of law

9. Since the declaration of independence, the Municipal and Minor Offences Courts in the Kosovo Serb-majority municipality of Leposaviq/Leposavić have functioned as part of the court system of the Republic of Serbia. The Municipal and Minor Offences Courts in Zubin Potok are currently closed. Court staff has been instructed by Belgrade to resign and close their bank accounts with the Kosovo Judicial Council, while the Court Liaison Offices of the Kosovo Ministry of Justice, which facilitate access to justice for Kosovo Serbs, have ceased most of their official operations owing to security concerns. The Kosovo Judicial Council and the Kosovo Ministry of Justice continue to pay salaries to all court staff, and to all Court Liaison Offices and prosecutors' office staff, pending their return to work. UNMIK representatives have met with representatives of Kosovo Serb judges and prosecutors, who have, however, continued their protests in northern Mitrovicë/Mitrovica.

10. Normal police operations have continued with some notable successes. In the period between 16 March and 20 May, KPS officers from the Directorate of Organized Crime seized significant amounts of illegal drugs. Those seizures were the result of extensive investigative work and show the continued development of the KPS in the fight against organized crime. On 7 May, a suspect was arrested in an outstanding case related to the March 2004 riots and charged with participation, as a leader, in a crowd that committed a criminal offence against Kosovo Serb residents, Serbian Orthodox religious sites and UNMIK headquarters in Prizren. The number of defendants convicted in cases prosecuted by international prosecutors in relation to the March 2004 riots remains at 35. Local prosecutors have brought criminal charges against over 300 people for offences related to the March 2004 riots, resulting in convictions of 145 people in Municipal and District Courts; 21 cases remain unsolved. In the Minor Offences Courts, 157 persons have been charged, resulting in convictions of 116 persons, and no more cases remain unsolved.

V. Economy

11. I have been informed that as of 30 June, the European Commission will end funding for operations of the economic reconstruction pillar of UNMIK (pillar IV) and that, as a result, pillar IV will cease all substantive operations. In paragraph 9 of my special report (S/2008/354), I brought to the attention of the Security Council my concern that that decision left UNMIK without the technical capacity or budgetary allocation to replace experts funded by the European Commission or to perform functions currently carried out by pillar IV, where that may be required. Pillar IV had been an integral component of UNMIK since its inception and I wish to extend my appreciation to the European Commission for its support in that crucial sector over the past nine years. UNMIK has taken the necessary legislative measure to ensure that trust funds of the Kosovo Trust Agency will continue to remain under its authority in the form of UNMIK executive decision 2008/26, which prohibits any transfer of such funds without UNMIK involvement. That measure will protect the Kosovo Trust Agency trust funds even in the face of possible challenges to the authority of the Kosovo Trust Agency over such funds or over socially owned enterprises in general. UNMIK will not, however, be in a position to take enforcement actions on that legislative measure, should that become necessary.

12. Kosovo has become increasingly integrated into the regional economy, although it continues to experience difficulties owing to the contested nature of its status. UNMIK, in cooperation with the Ministry of Trade and Industry, was fully involved in the initial steps of the implementation of the new Central European Free Trade Agreement. However, the recent decision of the Government of Serbia to challenge and not implement the customs regime established along the Administrative Boundary Line with Kosovo, despite its written commitment to do so, may cause significant difficulties for relations between the signatories.

13. Owing to a lack of customs controls at the Administrative Boundary Line, a significant amount of goods destined for local markets are not being declared, and smuggling through unapproved crossing points has increased. The situation is leading to losses in Kosovo's budget revenue due to the non-declarations to customs and increased smuggling of key commodities, especially fuel, by organized criminal elements. Moreover, the smuggling of expired food represents a significant threat to public health.

14. An International Monetary Fund (IMF) mission visited Kosovo in April to assess the macroeconomic framework and fiscal policies. The IMF recently revised upwards the Kosovo gross domestic product (GDP) figures, which are now estimated at €3,343 million (€1,573 per capita) in 2007, and forecast a real GDP growth of about 5 per cent per annum over a five-year period. The Government of Kosovo is preparing for a donor conference scheduled to take place in Brussels on 11 July. In preparation for the event, Kosovo's medium-term expenditure framework is currently being updated with new policy priorities and a public investment programme.

15. Audit reports on the Kosovo budget have revealed many weaknesses and inefficiencies in the management of public money. The implementation of public investment projects remains weak, as demonstrated by substantial underspending of capital. There are deficiencies in the administration of taxes, which have to be tackled to improve the business climate, without eroding the budget revenue base.

VI. Governance

16. Almost all municipalities have made significant progress in implementing Regulation 2007/30, which amends Regulation 2000/45 on Self-Government of Municipalities in Kosovo, expanding the role of local authorities and changing some of their personnel and financial administration structures. New Kosovo municipal administrations have consolidated their activities by taking measures to foster transparency and accountability, including opening the meetings of their Board of Directors to the public, establishing committees to review the status of illegal constructions and the usurpation of municipal property, as well as establishing municipal Human Rights Units. Six of the units are now operational in the municipalities of Podujevë/Podujevo, Fushë Kosovë/Kosovo Polje, Vushtrri/Vučitrn, Novobërdë/Novo Brdo, Klinë/Klina and Malishevë/Mališevo. All units will have a minimum of three officers, with the unit coordinator being the Gender Officer of each municipality.

VII. Cultural and religious heritage

17. Work on reconstruction of cultural and religious heritage has continued on residual projects from 2007, six of which were completed during the reporting period with another three expected to be concluded by the end of June 2008. In order to accommodate Serbian Orthodox Church and Serbian Government concerns, UNMIK has agreed to lead the Kosovo representation on the Reconstruction Implementation Committee, in agreement with the Kosovo authorities. The first meeting in 2008 of that Committee was held on 6 June with the participation of UNMIK, the Kosovo Ministry of Culture, Youth and Sports and the Serbian Orthodox Church, chaired by the Council of Europe. Participants were informed about the reconstruction activities that have taken place during the first five months of 2008 and about the preparation of new project proposals.

18. In order to address a long-standing dispute over land surrounding the Visoki Dečani Monastery, my Special Representative issued two executive decisions, by which he ordered that the cadastral records for that land — which appeared to have been amended in 2001 without due process of law — should be corrected, without prejudice to ongoing judicial proceedings. On 3 June, the municipal authorities of Deçan/Dečani issued a statement rejecting the implementation of the executive decisions, claiming that they legalized "forceful decisions" taken by Serbia during the Milošević regime in the 1990s. On 12 June, the UNMIK Municipal Representative in Deçan/Dečani was attacked by unknown assailants as he entered his residence and suffered light injuries. That attack followed threats made by a local leader of the War Veterans Association Kosovo against the Deputy Municipal Representative two weeks earlier. On 16 June, my Special Representative wrote to Bishop Teodosije of the Serbian Orthodox Church and the Mayor of Deçan/Dečani stating that, even if the Municipality refused to change the cadastre records, the executive decisions had the force of law and effectively altered the cadastre records accordingly.

19. The Ministry of Culture, Youth and Sports finalized drafts of seven subsidiary laws required for the implementation of the Cultural Heritage Law promulgated in November 2006. The draft laws are expected to be issued by June 2008. During the reporting period, KPS carried out 12 arrests and recorded a total of 27 incidents

against various religious or cultural sites, including 14 petty thefts and 10 acts of vandalism, with one taking place at an archaeological site.

VIII. Standards and European integration

20. As previously reported, the standards programme was incorporated into Kosovo's European Partnership programme in 2006, and as such continues to be the focus of a sustained effort on the part of Kosovo's institutions and strong engagement and support on the part of the international community. Details of developments in fields covered by the standards during the reporting period are set out in the technical assessment of standards implementation contained in annex I to the present report. Work continued on a new European Partnership Action Plan agreed with the European Union and published on 13 February 2008, which builds on the findings of the 2007 European Commission progress reports on Serbia and on Kosovo under resolution 1244 (1999).

21. I note that at the request of my Special Representative, the Office of Internal Oversight Services conducted a comprehensive and independent audit from June to August 2007 to assess the UNMIK overall performance of its mandate, with a view to identifying lessons learned and best practices in the areas of rule of law, civil administration and reconstruction and development. Subsequently, the Office of Internal Oversight Services submitted its report on the comprehensive audit of the UNMIK mandate implementation to the General Assembly on 18 April 2008 (A/62/807). That report identified a number of failures and deficiencies in the implementation of the mandate in those areas. My Special Representative raised concerns that in his view the report did not reflect a balanced assessment of the UNMIK performance throughout the course of its nine years in Kosovo. Taking into account the evolving circumstances on the ground, my Special Representative will continue to monitor existing gaps in the standards implementation and assist the local authorities in implementing the standards in order to fulfil the UNMIK mandate under resolution 1244 (1999).

IX. Human rights and humanitarian issues

22. The Prime Minister's Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender is finalizing the latest draft of the Human Rights Strategy and Action Plan. It includes inputs from all ministries' Human Rights Units, and will be a key Kosovo-wide policy and operational framework for implementation and coordination of human rights activities in all sectors for the coming three years. Following the establishment of Human Rights Units in line ministries, similar units have been established in 23, or approximately 70 per cent, of all municipalities.

23. The Human Rights Advisory Panel is now fully operational. The secondment of an expert from the European Court of Human Rights has boosted its technical capacity for human rights legal research, analysis and drafting. An electronic case management system has been set up, strengthening operational capacity. To promote public awareness of its mandate, it has embarked on an information campaign that includes meetings with non-governmental organizations and civil society groups, dissemination of information brochures, and running a public service announcement

on local Kosovo and Serbian television. Of the 26 cases it has received so far, the Panel has now issued decisions on admissibility in 9 cases, with 6 being declared admissible and 3 inadmissible. The cases deal, inter alia, with property rights, right to life, freedom of expression and administration of justice. Certain cases still raise issues concerning the effectiveness of legal remedies available to the complainants under the legal system in Kosovo as it currently stands. The Assembly of Kosovo is in the process of selecting candidates for the position of Ombudsperson, but there are serious concerns that the selection process has become highly politicized.

24. UNMIK has pursued an increasing engagement with civil society in collaboration with United Nations agencies, funds and programmes in Kosovo. The objective is to strengthen inter-agency mechanisms that will support the Kosovo government in both development efforts and response to emergencies by promoting efficient information-sharing and improved coordination. It is expected that a good flow of information will lead to coherent executive-level decision-making on humanitarian and development issues and will contribute to the promotion of peace and security. To that end, UNMIK is now hosting a monthly Inter-Agency Meeting, including major non-governmental organizations and the International Red Cross and Red Crescent Movement.

X. Returns

25. Between January and May 2008, 215 displaced persons, including 49 Kosovo Serbs and 108 Roma, Ashkali and Egyptians, returned to Kosovo, which shows a downward trend that can be attributed to the recent political developments, including the declaration of independence by Kosovo. The boycott by Kosovo Serb representatives of various decision-making forums on returns, namely the Municipal Working Groups and Task Forces, has affected the work and quality of decisions on communities and returns-related issues and activities. For example, the Municipal Returns Strategies in a number of municipalities have not yet been finalized and adopted. Further obstacles to returns include the lack of funding and the absence of dialogue and cooperation between the authorities in Pristina and Belgrade, as well as a lack of economic opportunities and occupation of property.

26. Outreach visits by Kosovo's leaders to the Kosovo Serbian communities, including by President Sejdiu and Prime Minister Thaci, have continued to take place. However, it was only at the insistence of UNMIK that those activities were included, at a late stage, in Kosovo's medium-term expenditure framework, which forms the basis for a donor conference expected to take place in July. That points to the need for strengthened efforts by the Kosovo Government to promote and implement returns and reintegration of minorities. The arrest of a Kosovo Serb internally displaced person visiting Kosovo from Serbia on 12 March for alleged war crimes, which took place after the declaration of independence of Kosovo, and an attack against a Kosovo Serb returnee on 21 May also seriously hampered return-related activities, including "go-and-see visits". Despite concerns among the Kosovo Serb community over the more strict implementation by Kosovo Police Service officers of the rules and procedures regarding vehicle registration plates, vehicle insurance and drivers' licences, the Kosovo Police Service has reported that freedom of movement for Kosovo Serbs has been at its required level.

27. Although the Ministry of Communities and Returns generally cooperates with the international community, it still faces challenges in undertaking returns and community development projects, as well as in addressing policy issues. Lack of sufficient transparency and disregard of rules and procedures hamper the functionality of the ministry and result in a lack of confidence in the institutions among members of the Kosovo Serb and other minority communities. The Ministry of Communities and Returns has approved the concept paper for the Llapje Sellë/Laplje Selo (Pristina region) return project costing €2 million, the first to be approved by Ministry of Communities and Returns in 2008, which will relocate internally displaced persons to a location other than their place of origin, with the construction of three apartment blocks to house 60 displaced and vulnerable families, or approximately 200 people.

28. The Serbian Government-funded Badovci i Ri/Novi Badovac return project in Graçanicë/Gračanica (Pristina region) has stalled after the municipality failed to grant land for the project. The project envisions building housing for 70 Kosovo Serb internally displaced person families originally from other areas in Kosovo and is covered by the Protocol of Cooperation on returns signed by Pristina, Belgrade and UNMIK on 6 June 2006, which allows the return of individuals to locations in Kosovo other than their place of origin. There has been increasing Kosovo Albanian political opposition to the Protocol and its application in the case of groups of Kosovo Serb returnees, including questioning the validity of Kosovo's signature on the document. This is a worrying development that could have implications for similar returns projects.

XI. Observations

29. The United Nations has maintained a position of strict neutrality on the question of Kosovo's status. However, since Kosovo's declaration of independence, UNMIK has been confronted with a substantially changed situation in Kosovo and has faced fundamental challenges to its authority and role. As I have communicated to the Security Council, in the light of these developments, it is my assessment that UNMIK can no longer perform as effectively as in the past the vast majority of its tasks as an interim administration throughout all of Kosovo.

30. Taking into account the profoundly changed reality in Kosovo, and in the interests of maintaining peace and stability in Kosovo and in the region, I have decided to move forward with the reconfiguration of the international civil presence within the framework of resolution 1244 (1999) and as set out in my special report to the Security Council. It is my view that the reconfiguration of UNMIK, which will be carried out in full accordance with resolution 1244 (1999), is in the interests of the United Nations and that its implementation will serve to safeguard UNMIK's achievements. Accordingly, I have instructed UNMIK to cooperate with the European Union, in order for it to assume an enhanced operational role in Kosovo in the area of the rule of law under the overall authority of the United Nations, in accordance with resolution 1244 (1999), and under a "United Nations umbrella" headed by my Special Representative.

31. The dialogue with Belgrade on issues of mutual concern referred to in my letter to President Tadić is of crucial importance for the efforts of the United Nations in Kosovo. My Special Representative stands ready to engage in an open,

transparent and balanced manner with the authorities in Belgrade in order to develop this dialogue, with a view to implementing practical arrangements in the six areas I have set out. He will do so in close cooperation and consultation with the authorities in Pristina and with relevant stakeholders.

32. UNMIK will continue to support Kosovo in its effort to consolidate democratic governance institutions, advance economic growth and move towards a future in Europe as part of the western Balkans. Building a society in which all communities can coexist in peace remains a difficult and long-term challenge in Kosovo. I call upon the authorities in Pristina and Belgrade and representatives of all of Kosovo's communities to continue to work together with UNMIK, and upon States members of the Council and the broader international community to support Kosovo in this effort.

33. I would like to express my appreciation and gratitude to my previous Special Representative, Joachim Rücker, as well as to my current Special Representative, Lamberto Zannier, and to the staff in UNMIK, for their dedicated efforts and commitment to move Kosovo forward during a challenging time. I would also like to extend my thanks to the United Nations partners — KFOR, the European Union, the Organization for Security and Cooperation in Europe — as well as to the United Nations agencies, funds and programmes and other contributors for their support.

Annex I

Technical assessment of progress in the implementation of the standards for Kosovo

Prepared by the Special Representative of the Secretary-General for Kosovo, 15 June 2008

Functioning democratic institutions

1. Four Kosovo Serb Assembly members continued their boycott of the work of the Assembly that began on 17 February. The remaining six Kosovo Serb members, who are part of the caucus of the Independent Liberal Party, ended their boycott of Assembly plenary sessions on 19 March. The two Independent Liberal Party ministers have also restarted attending the meetings of the Government on a regular basis. Eleven Kosovo Serb civil servants are working in the Assembly. Their attendance at work has not been affected by political developments. The auditing of the financial disclosure reports of the political entities that participated in the November 2007 elections continued. The Election Complaints and Appeals Commission imposed fines on 49 entities for non-submission of pre-campaign reports and on 22 entities for non-submission of campaign reports.

2. Some Kosovo Serb leaders have announced the formation of parallel municipal assemblies based on the local elections organized by Belgrade in Kosovo Serb areas on 11 May. In Shtërpcë/Štrpce and Novobërdë/Novo Brdo, the Kosovo Serb civil servants and members of the municipal assemblies continued to boycott the municipal structures. In Viti/Vitina, the Kosovo Serb staff of the Municipal Community Office first suspended cooperation with the municipality following the declaration of independence, then stopped reporting to work in late March. Despite these announcements, some Kosovo Serb civil servants have ended boycotts of their municipalities and returned to work in Lipjan/Lipljan and Fushë Kosovë/Kosovo Polje.

3. Internal audit units are functioning in all ministries, and all municipalities, with the exception of Obiliq/Obilić and Prizren, have established such units. In April, the Central Unit for the Harmonization of Internal Audit became operational. The Anti-Corruption Agency submitted its first annual report to the President of the Assembly of Kosovo on 3 March.

4. The Senior Public Appointments Committee voted recently to dismiss the permanent secretary of the Ministry of Health without affording the permanent secretary a hearing or the procedural right to object. In the case of the permanent secretary of the Ministry of Justice, however, the Senior Public Appointments Committee set up a panel to investigate the matter. The Special Representative of the Secretary-General subsequently wrote to the Prime Minister calling for greater impartiality and depoliticization of the Senior Public Appointments Committee.

5. During the reporting period, the Independent Oversight Board resolved 79 appeals, and compliance with the rulings of the Independent Oversight Board increased. Since the beginning of the year only seven decisions remained unimplemented and those have been referred to the Kosovo Assembly. However, the

Independent Oversight Board is still short of one member and lacks sufficient funds and office equipment.

6. Of the 27 concerned municipalities 22 have reported on Fair-Share Financing expenditures for the first quarter of 2008. The predominantly Kosovo Serb municipalities of Zvečan/Zveçan, Leposavić/Leposaviq, Zubin Potok, Štrpce/Shtërpcë and Novobërdë/Novo Brdo failed to submit their reports on time. The overall spending of the 22 reporting municipalities of 9.6 per cent falls below the official target of 12.5 per cent. Only the municipalities of Rahovec/Orahovac, Podujevë/Podujevo, Mitrovicë/Mitrovica and Prishtinë/Priština fulfilled their quotas. Compared to the same period of 2007, both the number of reporting municipalities and the overall level of spending show a noticeable decrease.

7. The implementation of the Law on the Use of Languages continues to suffer from insufficient allocation of human and financial resources. The Government has yet to conduct a public information campaign on the law. Only one municipality has adopted a municipal regulation on the use of languages. Of the 145 laws promulgated by the Special Representative of the Secretary-General, 95 have been published in the Official Gazette of the Provisional Institutions for Self-Government.

8. On 24 April, the Government of Kosovo approved the Kosovo programme on gender equality, which focuses on education of women, integration of women into the economy, labour and social welfare, culture and media, health, gender relations and decision-making processes. Currently, women hold 34 senior positions in the central government institutions (13.2 per cent). At the managerial level of heads of division, sector and unit, the ratio is 26 per cent women and 74 per cent men. The Office of the Prime Minister has agreed to the request of the Agency for Gender Equality to be involved in all working groups preparing draft laws for the Government.

9. The second round of the award of grants to minority, multi-ethnic and disadvantaged media is still pending. The first grants were awarded in 2006. No grants were distributed in 2007. Radio Television of Kosovo has so far transferred €176,000 to the Minority Media Fund for the year 2007. Radio Television of Kosovo is legally obliged to transfer 5 per cent of the public broadcast fee it collects to the media minority fund, although the equivalent of seven months of contributions remains to be transferred.

Challenges ahead

10. The Senior Public Appointments Committee and the Independent Oversight Board are important institutions in the development of a professional and non-partisan impartial civil service. Appropriate oversight of the Senior Public Appointments Committee should be exercised to ensure that it functions according to rules of procedure. The Independent Oversight Board should be properly staffed and resourced.

11. The Kosovo Government needs to actively raise public awareness of the Law on Languages and the Language Commission, its mandate and complaint procedure, and provide the Commission with adequate resources to enable it to function properly.

12. Additional efforts are needed to redress the backlog of unpublished legislation in the Official Gazette.

13. The Kosovo Assembly needs to approve the Kosovo programme for gender equality and provide adequate funding for its implementation.

14. The Government needs to renew its support to minority, multi-ethnic and disadvantaged media using the funding available to it from the public broadcast fee.

Rule of law

15. Crime clearance rates remained comparable for all communities.

16. On 7 May, a suspect identified as a leader of rioting in Prizren in March 2004 was arrested and charged with offences related to the burning of Kosovo Serb homes and Orthodox churches, and the throwing of stones at police buildings and UNMIK offices in Prizren.

17. On 27 May, the Kosovo Special Prosecutors Office secured a conviction against four out of five defendants for trafficking in persons, money-laundering, and facilitating prostitution. They were sentenced to five to six years of imprisonment, and fined approximately €85,000. On 14 May, a Kosovo Special Prosecutors Office indictment was confirmed against a number of suspects in a case involving the murder of a Kosovo Police Service (KPS) officer. The Special Prosecutor is currently prosecuting another case involving five Kosovo Albanian defendants charged with attempted aggravated murder and weapons offences in the attempted murder of the head of a Kosovo regulatory agency.

18. On 17 April, an international prosecutor secured a conviction against two Kosovo Albanian defendants for aggravated murder and attempted aggravated murder in the murder of one witness and the attempted murder of another in a sensitive war crimes case. The defendants were both sentenced to 25 years in prison. On 23 May, an international prosecutor secured a conviction against a Kosovo Serb for war crimes and sentenced him to eight years' imprisonment in connection with the large-scale destruction and theft of Kosovo Albanian property, intimidation, and endangering lives through the use of explosives and firearms from March through May 1999.

19. Minority representation within the KPS remained roughly constant at 15.5 per cent (9.9 per cent Kosovo Serb). Minority representation in the Kosovo Correctional Service remained at 14.2 per cent (10.3 per cent Kosovo Serb). Female representation held steady at 13.5 per cent in the KPS and 16.9 per cent in the Kosovo Correctional Service.

20. The suspension of over 300 Kosovo Serb KPS officers following their refusal to work under the recognized KPS chain of command through regional headquarters to main headquarters in Prishtinë/Priština continues to be a challenge as it has created a shortfall of officers in the Gjilan/Gnjilane and Prishtinë/Priština regions. The Government decided on 30 May to continue to pay the suspended police officers in an effort to encourage them to return to their posts. An operational plan to assist Kosovo Serb KPS officers who wish to return to work has been put in place and there are indications that a significant number of officers are considering returning; 17 have actually returned.

21. Currently, no Kosovo Albanian KPS officers are allowed in north Mitrovica owing to security concerns after incidents that occurred following the declaration of independence. Only UNMIK Police and the remaining Kosovo Serb KPS officers are responding to police calls and conducting investigations.

22. The Kosovo Correctional Service has begun the procedure to advertise vacancies for the positions currently occupied by 74 Kosovo Serb staff who have been boycotting their workplaces in the Gjilan/Gnjilane and Lipjan/Lipljan Detention Centres and Lipjan/Lipljan Prison since the declaration of independence. However, those staff members have not been dismissed, continue to receive their salaries, and remain able to return to their positions should they be willing to do so.

23. Following the declaration of independence, the judicial system in north Mitrovicë/Mitrovica stopped functioning, negatively affecting police investigations and prosecutions of criminal cases. The courts that were housed in the north Mitrovicë/Mitrovica complex have been closed since 21 February and they are now temporarily located in Vushtrri/Vučitrn, where they are handling only urgent matters.

Challenges ahead

24. Substantial efforts are needed to retain the Kosovo Serb police officers or to hire new ones in order to maintain multi-ethnicity of the KPS and ensure law and order in the minority communities.

25. A draft Regulation on Witness Protection has been elaborated and is under review.

26. The Law on Courts should be finalized. With the change of administration under the new Minister, the Ministry of Justice has significantly redrafted the law and it remains to be approved by the Office of the Prime Minister.

27. The creation of a unified department or agency for missing persons and forensics within the Ministry of Justice is foreseen in the Law on the Establishment of the Department of Forensic Medicine, which is currently being drafted.

28. The management of the Kosovo Judicial Council disciplinary system must be improved to clear the backlog of cases. There are 57 outstanding disciplinary cases before the two Kosovo Judicial Council Disciplinary Committees. Neither Committee has met since late 2007.

Freedom of movement

29. In Klinë/Klina, Istog/Istok and Pejë/Peć, Kosovo Serb returnees as well as displaced persons attended the Orthodox Easter services in Budisalc/Budisavci, Gorioč Monastery and Peć Patriarchate without any escort.

30. A Kosovo Serb returnee in Deçan/Dečani was physically assaulted by an unknown person on 21 May. The mayor of Deçan/Dečani and the KPS commander visited the victim the following day, strongly condemned the attack and promised to identify and bring the perpetrator to justice.

31. The number of passengers using the humanitarian bus service increased from 26,295 in January to 30,400 persons in April. The humanitarian bus line from Kodra e Minatorve/Mikronaselje, a Kosovo Albanian neighbourhood in northern Mitrovicë/Mitrovica, to the southern part of Mitrovicë/Mitrovica was restored on

7 April after being temporarily halted following the declaration of independence. The private minibus service that offers transport to Kosovo Albanians travelling from Leposaviq/Leposavić to southern Mitrovicë/Mitrovica also has resumed with KPS escorts after being temporarily suspended on 17 March.

32. The railway service between Zveçan/Zvečan and Fushë Kosovë/Kosovo Polje has still not resumed after it was stopped in early March when Serbian Railways began illegally operating train service in the north of Kosovo. Kosovo Serb staff have ceased to report to work in the railway service since 17 February. The current suspension of train service has negatively impacted the freedom of movement of Kosovo Serbs, especially those in Vushtrri/Vučitrn, Obiliq/Obilić and Fushë Kosovë/Kosovo Polje.

Challenges ahead

33. The Kosovo Government needs to ensure that any new contractor for the humanitarian bus service retains the confidence of the Kosovo Serbs and members of other communities that rely on the service.

Sustainable returns and the rights of communities and their members

34. The number of minority returns to Kosovo is unsatisfactory: United Nations High Commissioner for Refugees estimates that only 181 minority community members returned during the first four months of 2008, with the highest number of returns in the regions of Pejë/Peć and Prishtinë/Priština. As of April 2008, the total number of minority returnees since 2000 is estimated at 18,158.

35. The first organized return project of the year, funded by the British Government, was launched on 8 May for the return of 15 displaced families to Berkovë/Berkovo in Klinë/Klina municipality.

36. The funding gap for returns remains at €17 million for 21 organized multi-sectoral returns projects.

37. On a "go-and-see visit" arranged by the Danish Refugee Council to Istog/Istok, members of the Egyptian community from Rudesh/Rudeš (Istog/Istok) settlement, who are currently displaced in Montenegro, were not allowed to return to their place of origin, which is now within the boundaries of a protective zone surrounding the Gorioč monastery. They were offered three alternative sites for return, namely, Serbobran/Srbobran, Dubravë/Dubrava and Zallq/Žac; talks on this issue are still ongoing. It was also reported that strong reactions were expressed by the receiving community of all ethnic groups against their relocation in their villages.

38. In May, the Ministry of Communities and Returns assumed the oversight responsibility and funding of the management of Camp Osterode, which provides temporary shelter to Roma, Ashkali and Egyptian internally displaced persons in northern Mitrovicë/Mitrovica.

39. With the signing of a memorandum of understanding on 23 May between the Ministry of Communities and Returns and an internally displaced person association, the Ministry expects to enhance its relations with internally displaced person associations in various communities and returns-related projects in the future, recognizing them as essential partners in all central-level decision-making processes related to returns.

40. Expenditure management and compliance with civil service recruitment rules by the Ministry of Communities and Returns have improved. In May, the Ministry conducted the recruitment of a total of nine vacancies according to relevant civil service rules and regulations to redress irregular appointments. The Ministry has also demonstrated a marked decline in wasteful expenditures compared to last year and has managed its running expenditures so far this year according to the rules and regulations.

41. In a gesture of goodwill, President Sejdiu paid a visit to the first Serb returnees to Deçan/Dečani at their residence in March.

42. From January to April, 853 people were involuntarily repatriated to Kosovo, with the largest number of deportees coming from Germany (208 people). The figure has decreased compared to the same period last year, when there were 961 involuntary repatriations. A total of 3,125 individuals were repatriated to Kosovo in 2007, compared to 3,598 in 2006.

Challenges ahead

43. The Kosovo Government needs to demonstrate its commitment to implementing the Protocol on Returns.

44. To address the communication gaps among the internally displaced persons and the Kosovo Government, the Ministry of Communities and Returns should undertake intensive contacts with displaced persons, internally displaced person associations, as well as the media and other organizations that are devoted to communities in and returns to Kosovo.

Economy

45. The Ministry of Finance and Economy is preparing a medium-term expenditure framework for 2009-2011, which the Kosovo Government will present at a donor conference scheduled for 11 July 2008 in Brussels.

46. As at 30 April, the Kosovo Trust Agency has launched 30 waves of privatization, with 551 new companies derived from the assets of 313 socially owned enterprises tendered for sale. As at 30 April, total privatization proceeds amounted to more than €378 million. Of this amount, €75.6 million is due to the eligible former workers of privatized enterprises, of which €15.5 million has already been disbursed to the Independent Union of Trade Unions, which distributes the proceeds to the eligible former workers.

47. The Kosovo Energy Corporation revenue collection for the first quarter of 2008 stood at 40.6 per cent of energy available for sale, an increase of more than 7 per cent compared to the collection rate of 33.3 per cent of energy available for sale in the last quarter of 2007. This represents a slight decrease for the same period in 2007.

Challenges ahead

48. Deficiencies in the administration of taxes need to be tackled to improve the business climate without eroding the budget revenue base.

49. The audit reports on the Kosovo budget reveal many weaknesses and inefficiencies in the management of public money. Budget organizations need to undertake immediate steps to implement the Auditor General's recommendations.

50. The implementation of public investment projects remains weak, resulting in substantial underspending of capital budgets.

Property rights

51. Of the 29,160 cases adjudicated by the Housing and Property Claims Commission, 11 decisions are pending implementation. All of them pertain to properties located in the northern part of Mitrovicë/Mitrovica.

52. The Kosovo Property Agency has received a total of 39,583 claims covering agricultural, commercial and residential properties, with more than 90 per cent of claims pertaining to agricultural property, and has closed the claim intake. So far, the Kosovo Property Claims Commission has issued decisions on 8,295 claims (amounting to 21 per cent of the total caseload).

53. The Kosovo Property Agency continues to implement the rental scheme for properties under its administration. Under the scheme, there have been 823 evictions (344 during the reporting period), while 940 occupants currently pay rent, achieving a total rental income of €693,433.

Challenges ahead

54. The draft Law on Sales of Apartments Where Tenure Rights Exist needs to be amended in order to expressly recognize final decisions of the Housing and Property Claims Commission and thus ensure rights protection when privatizing apartments and prevent unlawful deprivations of possessions.

55. New members of the Supervisory Board of the Kosovo Property Agency have not yet been appointed.

56. The development and approval of the procedure for calculation and provision of monetary compensation for successful residential property claims need to be defined and approved by the Supervisory Board of the Kosovo Property Agency.

Cultural heritage

57. Work on reconstruction of cultural and religious heritage has continued on residual projects from 2007, six of which were completed during the reporting period with another three expected to be concluded in June 2008.

58. The Special Representative of the Secretary-General issued two executive decisions regarding a continuing property dispute involving the Visoki Dečani Monastery. The decisions require cadastral records to reflect the Monastery's possession of particular land parcels pursuant to a 1997 Deed of Gift. The order to change the cadastre was required to rectify what appear to be arbitrary changes to the possession list, without due process of law, in contravention of the Deed of Gift. The decisions are without prejudice to ongoing judicial proceedings which challenge the Deed of Gift. The municipality has refused to comply with the order contained in the Executive Decision.

59. Works on the Hadum Mosque in Gjakovë/Djakovica under the auspices of the United Nations Educational, Scientific and Cultural Organization with a United States donation, commenced in April and should be completed by October.

60. During the reporting period, the KPS recorded a total of 27 incidents against various religious or cultural sites. Of these, 14 were related to petty thefts, often involving minors. A total of 12 suspects were arrested while investigations were continuing in other cases.

61. KPS patrols and visits to cultural and religious sites continue on a regular basis. The 24-hour static presence at the St. Nicholas Church in Prishtinë/Priština continues and a private security company hired by the Ministry of Culture, Youth and Sports continues to provide additional security measures at a selected number of Serbian Orthodox sites, including the St. George Church in Prizren.

Challenges ahead

62. The Government needs to continue to work on ways to ensure necessary protection of cultural heritage sites and to conduct public awareness campaigns on a continuous basis. The Reconstruction Implementation Committee will need the continued support of all stakeholders, particularly the Serbian Orthodox Church, in order to conclude its undertaking. Urgent measures must be taken to establish the Kosovo Council for Cultural Heritage.

Kosovo Protection Corps

63. Minority representation in the Kosovo Protection Corps went down slightly from 6.5 to 6.2 per cent throughout the reporting period. The representation of Kosovo Serbs declined from 1.4 to 1 per cent. The Kosovo Protection Corps had 2,876 active members, out of which 178 are minorities (38 Kosovo Turks, 35 Kosovo Ashkali, 34 Kosovo Bosniak, 30 Kosovo Serbs and 41 from other Kosovo communities).

64. Following the declaration of independence on 17 February, eight Kosovo Serb members of the Kosovo Protection Corps stopped working. No disciplinary action has been taken against them so far and efforts continue to persuade them to return to work.

65. The Kosovo Protection Corps remains focused on developing and maintaining its operational capability. From 22 March to 12 April, a detachment of Kosovo Protection Corps deminers accompanied by an UNMIK representative took part in rescue operations in the village of Gërdec near Tirana, Albania, to help deal with the consequences of the explosion of an ammunition depot on 15 March.

Challenges ahead

66. The Office of the Kosovo Protection Corps Coordinator and KFOR continue to work together on initiatives to maintain and enhance engagement with the Kosovo Protection Corps through activities which sustain its operations and preserve its public standing.

Annex II

Composition and strength of the UNMIK police
(as at 15 June 2008)

Country	*Number*	*Country*	*Number*
Argentina	10	Malawi	4
Austria	22	Nepal	12
Bangladesh	160	Norway	10
Brazil	2	Pakistan	181
Bulgaria	46	Philippines	48
China	18	Poland	140
Croatia	14	Portugal	1
Czech Republic	23	Romania	181
Denmark	20	Russian Federation	41
Finland	8	Slovenia	14
France	41	Spain	14
Germany	133	Sweden	37
Ghana	34	Switzerland	7
Greece	2	Turkey	128
Hungary	14	Uganda	4
India	99	United Kingdom of Great Britain and Northern Ireland	49
Italy	44	United States of America	183
Jordan	68	Ukraine	183
Kenya	14	Zambia	10
Kyrgyzstan	7	Zimbabwe	24
Lithuania	6		
Total			**2 056**

Composition of the Kosovo Police Service
(as at 15 June 2008)

Category	*Percentage*	*Number*
Kosovo Albanians	84.51	5 980
Kosovo Serbs	9.92	702
Other ethnic minority members	5.57	394
Total		**7 076**
Men	86.48	6 119
Women	13.52	957

Annex III

Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo

(as at 15 June 2008)

Country	*Number of liaison officers*
Argentina	1
Bangladesh	2
Bolivia	2
Bulgaria	1
Chile	1
Czech Republic	1
Denmark	1
Hungary	1
Ireland	4
Jordan	2
Kenya	2
Malawi	1
Malaysia	1
Nepal	1
New Zealand	1
Norway	2
Pakistan	2
Poland	1
Portugal	2
Romania	3
Russian Federation	1
Spain	2
Ukraine	2
United Kingdom of Great Britain and Northern Ireland	1
Zambia	1
Total	**39**

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